

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 161

HOUSE BILL 2225

AN ACT

AMENDING SECTIONS 42-1122 AND 42-2003, ARIZONA REVISED STATUTES; RELATING TO
TAXPAYER INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-1122, Arizona Revised Statutes, is amended to
3 read:

4 42-1122. Setoff for debts to state agencies and courts;
5 revolving fund; definitions

6 A. The department shall establish a liability setoff program by which
7 refunds under sections 42-1118 and 43-1072 may be used to satisfy debts which
8 the taxpayer owes this state or a court. The program shall comply with the
9 standards and requirements prescribed by this section.

10 B. If a taxpayer owes an agency or court a debt, the agency or court
11 may, by November 1 of each year, MAY notify the department, furnishing at
12 least the state agency, court or program identifier, the first name, last
13 name, middle initial and social security number of the debtor, and the amount
14 of the debt.

15 C. The department shall match the information submitted by the agency
16 or court with taxpayers who qualify for refunds under section 42-1118 and:

17 1. Notify the agency or court of a potential match, the taxpayer's
18 home address and any additional taxpayer identification numbers used by the
19 taxpayer. Even if the taxpayer is not entitled to a refund, the department
20 of revenue shall provide to:

21 (a) The department of economic security, for child support purposes
22 only, the home address of a taxpayer whose debt for overdue support is
23 referred for setoff and any additional taxpayer identification numbers used
24 by the taxpayer.

25 (b) THE COURT, THE HOME ADDRESS AND ANY ADDITIONAL TAXPAYER
26 IDENTIFICATION NUMBERS USED BY THE TAXPAYER WHOSE DEBT FOR A COURT OBLIGATION
27 IS REFERRED FOR SETOFF AND WHO IS IDENTIFIED BY THE COURT AS A PROBATIONER
28 ON ABSCONDER STATUS.

29 2. Request final agency or court confirmation within ten days of the
30 match and of the continuation of the debt. If the agency or court fails to
31 provide confirmation within forty-five days after the request, the department
32 shall release the refund to the taxpayer.

33 D. An agency or court may submit updated information, additions,
34 deletions and other changes on a quarterly or more frequent basis, at the
35 convenience of the agency or court.

36 E. On confirmation pursuant to subsection C, paragraph 2 of this
37 section, the agency shall notify the taxpayer, by mail to the most recent
38 address provided by the taxpayer to the department, of the intention to set
39 off the debt against the refund due and of the taxpayer's right to appeal to
40 the appropriate court, or to request a review by the agency pursuant to
41 agency rule, within thirty days of the mailing of the notice. The basis for
42 a request for review shall not include the validity of the claim if its
43 validity has been established at an agency hearing, by judicial review in a
44 court of competent jurisdiction in this or any other state or by final
45 administrative decision and shall state with specificity why the taxpayer

1 claims the obligation does not exist or why the amount of the obligation is
2 incorrect. If the setoff accounts for only a portion of the refund due, the
3 remainder of the refund shall be sent to the taxpayer.

4 F. If, within thirty days of the mailing of the notice, the taxpayer
5 requests a review by the agency or provides the agency with proof that an
6 appeal has been taken to the appropriate court, the agency shall immediately
7 notify the department and the setoff procedure shall be stayed pending
8 resolution of the review or appeal.

9 G. If the department does not receive notice of a timely appeal, it
10 shall draw and deliver a warrant in the amount of the available refund up to
11 the amount of the debt in favor of the agency and notify the taxpayer of the
12 action by mail.

13 H. ~~The provisions of Subsections E, F and G of this section do not~~
14 apply to a debt imposed by a court. A court shall not use this section to
15 satisfy a judgment or payment of a fine or civil penalty until the judgment
16 has become final or until the time to appeal the imposition of a fine or
17 civil penalty has expired.

18 I. A revolving fund is established to recover and pay the cost of
19 operating the setoff program under this section. The department may
20 prescribe a fee to be collected from each agency or court utilizing the
21 setoff procedure or from the taxpayer, and the amount shall be deposited in
22 the fund. The amount of the fee shall reasonably reflect the actual cost of
23 the service provided. ~~Beginning July 1, 1999,~~ Monies in the revolving fund
24 are subject to legislative appropriation.

25 J. If agencies or courts have two or more delinquent accounts for the
26 same taxpayer, the refund may be apportioned among them pursuant to rules
27 prescribed by the department of revenue, except that a setoff to the
28 department of economic security for overdue support has priority over all
29 other setoffs.

30 K. If the refund is insufficient to satisfy the entire debt, the
31 remainder of the debt may be collected by the agency or court as provided by
32 law or resubmitted for setoff against subsequent refunds.

33 L. In the case of a refund that is intercepted in error under this
34 section, the taxpayer shall be reimbursed by the agency or court with
35 interest pursuant to section 42-1123.

36 M. Except as is reasonably necessary to accomplish the purposes of
37 this section, the department shall not disclose under this section any
38 information in violation of chapter 2, article 1 of this title.

39 N. An agency or court shall not enter an agreement with a debtor for:
40 1. The assignment of any prospective refund to the agency or court in
41 satisfaction of the debt.

42 2. Payment of the debt if the debt has been confirmed to the
43 department for setoff under subsection C, paragraph 2 of this section.

1 0. If a tax refund is based on a joint income tax return and the
2 department of economic security receives a written claim from the
3 nonobligated spouse within forty-five days after the notice of a setoff for
4 overdue child support, the setoff only applies to that portion of the refund
5 due to the obligor. The nonobligated spouse shall provide to the department
6 of economic security copies of both the obligated and nonobligated spouse's
7 federal W-2 forms and evidence of estimated tax payments supporting the
8 proportionate share of each spouse's payment of tax. The department of
9 economic security shall retain the amount of the set off refund due to the
10 obligated spouse determined by a proration based on the tax payments of each
11 spouse by estimated tax payment or tax withheld from wages.

12 P. ~~in~~ FOR THE PURPOSES OF this section:

13 1. "Agency" means a department, agency, board, commission or
14 institution of this state. Agency also means a corporation that is under
15 contract with this state and that provides a service that would otherwise be
16 provided by a department, agency, board, commission or institution of this
17 state, if the contract specifically authorizes participation in the liability
18 setoff program and the attorney general's office has reviewed the contract
19 and approves such authorization. The participation in the liability setoff
20 program shall be limited to debt related to the services the corporation
21 provides for or on behalf of this state.

22 2. "Court" means all courts of record, justice courts, municipal
23 courts and police courts.

24 3. "Debt" means an amount over fifty dollars owed to an agency or
25 court by a taxpayer and may include a judgment in favor of this state or a
26 political subdivision of this state, interest, penalties, charges, costs,
27 fees, fines, civil penalties, surcharges, assessments, administrative charges
28 or any other amount. Debt also includes monies owed by a taxpayer for
29 overdue support and referred to the department of economic security for
30 collection.

31 4. "Overdue support" means a delinquency in court ordered payments for
32 support of a child or for spousal maintenance to the parent with whom the
33 child is living if child support is also being enforced pursuant to an
34 assignment or application filed under 42 United States Code section 654(6).

35 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:

36 42-2003. Authorized disclosure of confidential information

37 A. Confidential information relating to:

38 1. A taxpayer may be disclosed to the taxpayer, its successor in
39 interest or a designee of the taxpayer who is authorized in writing by the
40 taxpayer. A principal corporate officer of a parent corporation may execute
41 a written authorization for a controlled subsidiary.

42 2. A corporate taxpayer may be disclosed to any principal officer, any
43 person designated by a principal officer or any person designated in a
44 resolution by the corporate board of directors or other similar governing
45 body.

1 3. A partnership may be disclosed to any partner of the partnership.
2 This exception does not include disclosure of confidential information of a
3 particular partner unless otherwise authorized.

4 4. An estate may be disclosed to the personal representative of the
5 estate and to any heir, next of kin or beneficiary under the will of the
6 decedent if the department finds that the heir, next of kin or beneficiary
7 has a material interest which will be affected by the confidential
8 information.

9 5. A trust may be disclosed to the trustee or trustees, jointly or
10 separately, and to the grantor or any beneficiary of the trust if the
11 department finds that the grantor or beneficiary has a material interest
12 which will be affected by the confidential information.

13 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
14 to confidentiality either in writing or on the record in any administrative
15 or judicial proceeding.

16 7. The name and taxpayer identification numbers of persons issued
17 direct payment permits may be publicly disclosed.

18 B. Confidential information may be disclosed to:

19 1. Any employee of the department whose official duties involve tax
20 administration.

21 2. The office of the attorney general solely for its use in
22 preparation for, or in an investigation which may result in, any proceeding
23 involving tax administration before the department or any other agency or
24 board of this state, or before any grand jury or any state or federal court.

25 3. The department of liquor licenses and control for its use in
26 determining whether a spirituous liquor licensee has paid all transaction
27 privilege taxes and affiliated excise taxes incurred as a result of the sale
28 of spirituous liquor at the licensed establishment and imposed on the
29 licensed establishments by this state and its political subdivisions.

30 4. Other state tax officials whose official duties require the
31 disclosure for proper tax administration purposes if the information is
32 sought in connection with an investigation or any other proceeding conducted
33 by the official. Any disclosure is limited to information of a taxpayer who
34 is being investigated or who is a party to a proceeding conducted by the
35 official.

36 5. The following agencies, officials and organizations, if they grant
37 substantially similar privileges to the department for the type of
38 information being sought, pursuant to statute and a written agreement between
39 the department and the foreign country, agency, state, Indian tribe or
40 organization:

41 (a) The United States internal revenue service, alcohol and tobacco
42 tax and trade bureau of the United States treasury, United States bureau of
43 alcohol, tobacco, firearms and explosives of the United States department of
44 justice, United States drug enforcement agency and federal bureau of
45 investigation.

1 (b) A state tax official of another state.

2 (c) An organization of states that operates an information exchange
3 for tax administration purposes.

4 (d) An agency, official or organization of a foreign country with
5 responsibilities that are comparable to those listed in subdivision (a), (b)
6 or (c) of this paragraph.

7 (e) An agency, official or organization of an Indian tribal government
8 with responsibilities comparable to the responsibilities of the agencies,
9 officials or organizations identified in subdivision (a), (b) or (c) of this
10 paragraph.

11 6. The auditor general, in connection with any audit of the department
12 subject to the restrictions in section 42-2002, subsection C.

13 7. Any person to the extent necessary for effective tax administration
14 in connection with:

15 (a) The processing, storage, transmission, destruction and
16 reproduction of the information.

17 (b) The programming, maintenance, repair, testing and procurement of
18 equipment for purposes of tax administration.

19 8. The office of administrative hearings relating to taxes
20 administered by the department pursuant to section 42-1101, but the
21 department shall not disclose any confidential information:

22 (a) Regarding income tax, withholding tax or estate tax.

23 (b) On any tax issue relating to information associated with the
24 reporting of income tax, withholding tax or estate tax.

25 9. The United States treasury inspector general for tax administration
26 for the purpose of reporting a violation of internal revenue code section
27 7213A (26 United States Code section 7213A), unauthorized inspection of
28 returns or return information.

29 10. The financial management service of the United States treasury
30 department for use in the treasury offset program.

31 C. Confidential information may be disclosed in any state or federal
32 judicial or administrative proceeding pertaining to tax administration if the
33 taxpayer is a party to the proceeding.

34 D. Identity information may be disclosed for purposes of notifying
35 persons entitled to tax refunds if the department is unable to locate the
36 persons after reasonable effort.

37 E. The department, upon the request of any person, shall provide the
38 names and addresses of bingo licensees as defined in section 5-401 or verify
39 whether or not a person has a privilege license and number or withholding
40 license and number.

41 F. A department employee, in connection with the official duties
42 relating to any audit, collection activity or civil or criminal
43 investigation, may disclose return information to the extent that disclosure
44 is necessary to obtain information which is not otherwise reasonably
45 available. These official duties include the correct determination of and

1 liability for tax, the amount to be collected or the enforcement of other
2 state tax revenue laws.

3 G. If an organization is exempt from this state's income tax as
4 provided in section 43-1201 for any taxable year, the name and address of the
5 organization and the application filed by the organization upon which the
6 department made its determination for exemption together with any papers
7 submitted in support of the application and any letter or document issued by
8 the department concerning the application are open to public inspection.

9 H. Confidential information relating to transaction privilege tax, use
10 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
11 be disclosed to any county, city or town tax official if the information
12 relates to a taxpayer who is or may be taxable by the county, city or town.
13 Any taxpayer information released by the department to the county, city or
14 town:

15 1. May only be used for internal purposes.

16 2. May not be disclosed to the public in any manner that does not
17 comply with confidentiality standards established by the department. The
18 county, city or town shall agree in writing with the department that any
19 release of confidential information that violates the confidentiality
20 standards adopted by the department will result in the immediate suspension
21 of any rights of the county, city or town to receive taxpayer information
22 under this subsection.

23 I. The department may disclose statistical information gathered from
24 confidential information if it does not disclose confidential information
25 attributable to any one taxpayer. In order to comply with the requirements
26 of section 42-5029, subsection A, paragraph 3, the department may disclose
27 to the state treasurer statistical information gathered from confidential
28 information, even if it discloses confidential information attributable to
29 a taxpayer.

30 J. The department may disclose the aggregate amounts of any tax
31 credit, tax deduction or tax exemption enacted after January 1, 1994.
32 Information subject to disclosure under this subsection shall not be
33 disclosed if a taxpayer demonstrates to the department that such information
34 would give an unfair advantage to competitors.

35 K. Except as provided in section 42-2002, subsection B, confidential
36 information, described in section 42-2001, paragraph 2, subdivision (a), item
37 (iii), may be disclosed to law enforcement agencies for law enforcement
38 purposes.

39 L. The department may provide transaction privilege tax license
40 information to property tax officials in a county for the purpose of
41 identification and verification of the tax status of commercial property.

42 M. The department may provide transaction privilege tax, luxury tax,
43 use tax, property tax and severance tax information to the ombudsman-citizens
44 aide pursuant to title 41, chapter 8, article 5.

1 N. Except as provided in section 42-2002, subsection C, a court may
2 order the department to disclose confidential information pertaining to a
3 party to an action. An order shall be made only upon a showing of good cause
4 and that the party seeking the information has made demand upon the taxpayer
5 for the information.

6 O. This section does not prohibit the disclosure by the department of
7 any information or documents submitted to the department by a bingo licensee.
8 Before disclosing the information the department shall obtain the name and
9 address of the person requesting the information.

10 P. If the department is required or permitted to disclose confidential
11 information, it may charge the person or agency requesting the information
12 for the reasonable cost of its services.

13 Q. Except as provided in section 42-2002, subsection C, the department
14 of revenue shall release confidential information as requested by the
15 department of economic security pursuant to section 42-1122 or 46-291.
16 Information disclosed under this subsection is limited to the same type of
17 information that the United States internal revenue service is authorized to
18 disclose under section 6103(1)(6) of the internal revenue code.

19 R. EXCEPT AS PROVIDED IN SECTION 42-2002, SUBSECTION C, THE DEPARTMENT
20 OF REVENUE SHALL RELEASE CONFIDENTIAL INFORMATION AS REQUESTED BY THE COURT
21 PURSUANT TO SECTION 42-1122.

22 ~~R.~~ S. To comply with the requirements of section 42-5031, the
23 department may disclose to the state treasurer, to the county stadium
24 district board of directors and to any city or town tax official that is part
25 of the county stadium district confidential information attributable to a
26 taxpayer's business activity conducted in the county stadium district.

27 ~~S.~~ T. The department shall release confidential information as
28 requested by the attorney general for purposes of determining compliance with
29 and enforcing section 44-7101, the master settlement agreement referred to
30 therein and subsequent agreements to which the state is a party that amend
31 or implement the master settlement agreement. Information disclosed under
32 this subsection is limited to luxury tax information relating to tobacco
33 manufacturers, distributors, wholesalers and retailers and information
34 collected by the department pursuant to section 44-7101(2)(j).

35 ~~T.~~ U. For proceedings before the department, the office of
36 administrative hearings, the board of tax appeals or any state or federal
37 court involving penalties that were assessed against a return preparer or
38 electronic return preparer pursuant to section 42-1103.02 or 42-1125.01,
39 confidential information may be disclosed only before the judge or
40 administrative law judge adjudicating the proceeding, the parties to the
41 proceeding and the parties' representatives in the proceeding prior to its
42 introduction into evidence in the proceeding. The confidential information
43 may be introduced as evidence in the proceeding only if the taxpayer's name,
44 the names of any dependents listed on the return, all social security

1 numbers, the taxpayer's address, the taxpayer's signature and any attachments
2 containing any of the foregoing information are redacted and if either:

3 1. The treatment of an item reflected on such return is or may be
4 related to the resolution of an issue in the proceeding.

5 2. Such return or return information relates or may relate to a
6 transactional relationship between a person who is a party to the proceeding
7 and the taxpayer which directly affects the resolution of an issue in the
8 proceeding.

9 ~~¶~~ V. The department may disclose to the attorney general
10 confidential information received under section 44-7111 and requested by the
11 attorney general for purposes of determining compliance with and enforcing
12 section 44-7111. The department and attorney general shall share with each
13 other the information received under section 44-7111, and may share the
14 information with other federal, state or local agencies only for the purposes
15 of enforcement of section 44-7101, section 44-7111 or corresponding laws of
16 other states.

APPROVED BY THE GOVERNOR APRIL 26, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2004.



Passed the House March 1, 2004

Passed the Senate April 7, 2004

by the following vote: 60 Ayes,

by the following vote: 29 Ayes,

0 Nays, 0 Not Voting

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Ken Bennett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Channing Belmont
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

Secretary of State


H.B. 2225

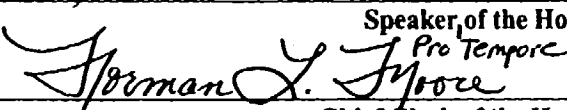
HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 20, 2004,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting



Speaker of the House
Pro Tempore


Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

20th day of April, 2004,

at 12:23 o'clock P. M.

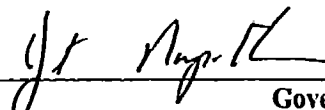


Secretary to the Governor

Approved this 26 day of

April, 2004,

at 9³⁰ o'clock A. M.



Governor of Arizona

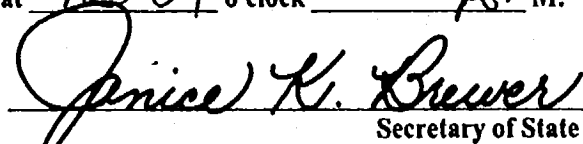
H.B. 2225

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 26 day of April, 2004,

at 12:34 o'clock P. M.



Secretary of State